



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]

DECISION

MPA/142713

PRELIMINARY RECITALS

Pursuant to a petition filed July 26, 2012, under Wis. Stat. §49.45(5), and Wis. Admin. Code §HA 3.03(1), to review a decision by the Office of Inspector General (OIG) in regard to Medical Assistance (MA), a hearing was held on September 20, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the OIG correctly denied a request for the coverage by MA of a computed tomography angiography (CTA) of the neck.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submittal: Dr. Lora Wiggins
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County who is certified for MA.
2. On July 2, 2012, a prior authorization request (# [REDACTED]) was submitted to the OIG on the petitioner's behalf for a CTA of her neck. The request was made by Dr. Khatri.

3. The OIG's agent denied the request, and written notice of denial was issued to the petitioner on July 9, 2012. The petitioner timely appealed.
4. The OIG requires prior authorization for CTAs. The OIG's basis for denial was that the petitioner had not received an ultrasound prior to requesting a CTA of the neck.

DISCUSSION

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The OIG has made payment of CTA scans subject to prior authorization, in an effort to determine if they are being ordered consistent with good medical practice. This prior authorization requirement was announced to providers in an *MA Update*, #2010-92, issued to all providers in October, 2010.

The instant prior authorization request was denied because the OIG has determined that a less expensive ultrasound should have been performed before resorting to the CT scan. The OIG's imaging guidelines indicates that if an ultrasound shows greater than 50% blockage of the internal carotid artery, then a scan of the neck may be appropriate. See *Peripheral Vascular Disease Imaging Guidelines for Cerebrovascular and Carotid Disease* (PVD-3.1; attached to OIG's summary letter of August 6, 2012.) Given the evidence that the OIG's agent had to work with at the time of decision, that decision was correct.

Because the OIG's policy of requiring the ultrasound before authorizing a CT scan is reasonable, and its application was reasonable here, the CT denial will be upheld.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

The petitioner is advised that she may be well-advised to seek further consultation with her physician to again seek coverage of future medical tests in conformance with these guidelines. She may desire to provide a copy of this Decision and the agency's summary letter of August 6, 2012 to Dr. Khatri for the MA-related resources cited above.

CONCLUSIONS OF LAW

The OIG correctly denied petitioner's PA request for CTA of her neck because the PA request did not document any ultrasound taken showing greater than 50% blockage of the internal carotid artery prior to the PA request.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

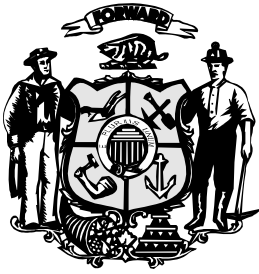
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of October, 2012

Kelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access And Accountability - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 3, 2012.

Division of Health Care Access And Accountability